HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 4920 of 2006

PETITIONER : Sunil Godeshawar, Aged about 33 Years, S/o- Shri J.L.Godeshawar R/o- 43, Kumar Villa Bactawar Chall Ward no. 16, Tulsipur, Rajnandgaon (C.G.)

VERSUS

RESPONDENTS :
1. State of Chhattisgarh, Through: The Secretary, Agriculture Department Mantralaya D.K.S. Bhawan, Raipur (C.G.)
2. Joint Director, Agriculture Department and Public Information Officer, Directorate of Agriculture Department, Raipur (C.G.)
3. Assistant Director, Agriculture Department Rajnandgaon (C.G.)
4. Assistant Land Conservation Officer, O/o Assistant Land Conservation Office, Rajnandgaon (C.G.)

WRIT PETITION UNDER SECTION 226/227 OF THE CONSTITUTION OF INDIA.

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Anup Majumdar, Advocate for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the State.

ORDER
(Passed on 14th day of June, 2007)

1. By this petition, the petitioner impugns the legality and validity of the order dated 29.08.2006 (Annexure P/6) and the recommendation of the Departmental Promotion Committee held on 28.04.2006 (Annexure P/9) and further sought for direction to confirm his adhoc promotion on the post of Draughtsman w.e.f 06.10.2003 with all consequential benefits.

2. The facts in nutshell are that the petitioner was initially appointed on the post of Tracer on 08.04.1993. The Assistant Director, Agriculture, Rajnandgaon, recommended the name of the petitioner for promotion to

the post of Draughtsman against the reserved category of Scheduled Caste. The Office of the Director, Agriculture Department, Raipur vide letter dated 6.10.2003 (Annexure P/4) promoted the petitioner on the post of Draughtsman on adhoc basis with a condition that the promotion was purely temporary. The petitioner could not claim any seniority or grant of higher pay scale. In future, if there is any irregularity noticed in the promotion of the petitioner, the same can be modified, revised or cancelled in accordance with law. The Additional Director, Directorate of Agriculture, vide order dated 29.08.2006 (Annexure P/6) informed that the promotion of the petitioner on adhoc basis was not in accordance with the provisions of Chhattisgarh Public Service Promotion Rules, 2003 as such his promotion vide order dated 06.10.2003 (Annexure P/4) was cancelled. According to the learned counsel, a representation made by the petitioner to the Director, vide Annexure P/8, remained unanswered. Being aggrieved, the petitioner has filed the present petition.

3. The main thrust of the argument of the learned counsel appearing for the petitioner is that once the petitioner has been promoted on adhoc basis, he cannot be denied confirmation on the promoted post on the ground that the earlier promotion on adhoc basis was not in accordance with law.

4. After hearing the learned counsel for the petitioner, I perused the documents appended to the petition. Admittedly, the promotion of the petitioner was on ad-hoc basis subject to certain terms and conditions. It was made clear that the promotion was purely temporary and no right would accrue thereof. The petitioner could not be confirmed on promoted post. The post vacant was reserved for Scheduled Tribe and in the adhoc promotion vide order dated 06.10.2003, the same was given to the

petitioner, who belongs to Scheduled Caste category. Thus, his promotion was not in accordance with law.

5. It is well settled principle of law that any appointment dehors the constitutional scheme of the employment and not in consonance with the provisions of law on ad-hoc basis or temporary, is not legal and the employee does not acquire any right to continue to the post and other benefits of the regular service.

6. In view of the settled position of law, ad hoc or contract promotees have no right to the post as their promotion, which was not in accordance with the constitutional scheme and not in accordance with any Rules, Regulations as framed under the proviso to Article 309 of the Constitution of India.

7. In view of the foregoing, the petition is dismissed, summarily.

Sd/-
Satish K. Agnihotri
Judge

Amit